IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8589 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

H J BAVA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8589 of 1989

MR IS SUPEHIA for Petitioner No. 1

MR PR ABICHANDANI AGP for Respondent No. 1-2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/11/2002

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner before this Court was, at the relevant time, serving as Mukhya Sevika. Under the Government Notification dated 4th February, 1986, the petitioner and five others were promoted to Gujarat Development Services Class-II by way of temporary/ad hoc arrangement. The service of the said six persons were transferred to Gujarat Development Commissioner for making suitable posting orders. It is the grievance of the petitioner that though she was promoted under Notification dated 4th February, 1986, she was not given posting order. Some other Mukhya Sevikas junior to the petitioner, who were promoted under the said Notification dated 4th February, 1986 were issued suitable posting orders. The petitioner had made repeated representations in the subject matter, however, no posting order was made in her favour till the date. Feeling aggrieved, the petitioner has preferred the present petition.

Under the Notification dated 4th February, 1986, the petitioner and five others were give temporary promotion by way of ad hoc arrangement, subject to their passing lower level and higher level departmental examinations. Even the petitioner has admitted that she was not qualified for such promotion since she had not passed the requisite departmental examinations. It is not known whether or not, pending this petition, the petitioner has passed the departmental examinations and has become qualified for promotion.

The learned AGP Mr. P.R Abichandani states that pending the petition, this Court by an interim order made on Special Civil Application No. 720 of 1986 has restrained the respondents-authorities from promoting any person to Gujarat Development Services {Class-II} who is not qualified for such promotion. Since the petitioner is not qualified for such promotion, inspite of the order dated 4th February,1986, the petitioner could not be issued suitable posting order.

Be that as it may, at the relevant time, the petitioner was not eligible for promotion to Class II service. The petitioner, therefore, cannot claim such promotion or posting as of right. The respondents-authorities cannot now be directed to post the petitioner to Class-II service pursuant to the ad hoc promotions made as far back as on 4th February, 1986. Hence, this petition is dismissed. Rule is discharged. There shall be no order as to costs.

[Ms. R.M Doshit, J.]

Prakash*